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Re: Fletcher Paint Works and Storage Facility Superfund Site; Comments Regarding Draft *De Minimus* Determination.

Dear Ms. Powell:

Pursuant to the February 1, 2002 letter from Cheryl Sprague, American Annuity Group, Inc. ("AAG") hereby submits its comments with respect to EPA's Draft *De Minimus* Determination. In general, AAG believes that the Draft *De Minimus* Determination is a comprehensive and thorough analysis of all of the available evidence regarding the Site. However, AAG believes that a further review of the evidence will show that AAG's share should be reduced because (1) the Determination understates General Electric's contribution of hazardous materials to the Site; (2) the Determination overstates Sprague's contribution; and (3) the Determination does not take into account the uncontroverted evidence regarding release and toxicity.

I. The Draft *De Minimus* Determination Understates GE's Contribution of Hazardous Materials to the Site.

The Draft *De Minimus* Determination states that "GE maintained some records of its shipments to MPW." Determination, ¶ 7. EPA used GE's records to calculate its estimate of GE shipments to Milford Pain Works ("MPW"). *See* Table, 1, ¶ 57. For many of the years in question (1956-1960, 1965-1967), EPA's estimate is based solely on GE records. *Id.* With some exceptions, (i.e. the addition of some free shipments) EPA's methodology seems to generally assume that GE records document all or most of the pyranol that MPW *purchased* from GE during the years in question. *See id.* It is AAG's position, however, that EPA's approach in this regard understates GE's contribution in light of the testimony and the undisputedly incomplete nature of GE's documents.

Most importantly, none of the GE documents are original or contemporaneous. Rather, the primary document used to estimate GE shipments to MPW is a 4-page spreadsheet of unknown origin. *See* Appendix A to *de minimus* Determination.

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GE does not know *who* drafted the spreadsheet except that GE believes it was drafted by "an internal auditor employed by GE." Siebels Aff. ¶ 2. GE does not know *when* the GE spreadsheet was drafted except that GE believes it was drafted "sometime in 1979 or 1980." (i.e. long after the hazards of PCBs had become known) *Id.* GE does not know *why* the GE spreadsheet was drafted except that GE believes it was prepared "in the course of an investigation conducted by an [unidentified] attorney relating to the disposition of materials including PCBs and PCB containing oils from GE's Hudson Falls and Fort Edwards facilities." *Id.*

With respect to documents reviewed by the author in the course of drafting the GE spreadsheet, GE claims that the author reviewed the following classes of documents: Subledger details 1952-56; Journal Entry Details; Shipping Notices 1958-60; 1969-72; Cash Receipts 1961-62; Sundry Receivables Account Reconciliation 1965-76; Company Scrap Report 1965; Corporate Audit Staff memoranda 1956-71. Siebels Aff. ¶ 3. Presumably, GE's understanding in this regard is based on what the spreadsheet itself states with respect to the source documentation used to draft it. Ms. Siebels confirmed that apart from what is written on the spreadsheet itself, GE does not know specifically what the author did in pursuit of his task or what documents he looked at with respect thereto. Siebels Dep. at 38-45. With respect to the current location of any source documentation that was perhaps used to draft the GE spreadsheet, GE states that any such documentation "cannot currently be located." "This information was reportedly disposed of in 1981 because it was older than the then-applicable GE document retention policy." *Id.* at ¶ 4.[1]

In this regard, it is important to note that GE witnesses made clear that the contemporaneous document that would have been created in connection with any sale of GE pyranol to MPW was a "shipping notice." *See* Varnum Affidavit. None of these "shipping notices" exist today. According to GE's spreadsheet, the only "shipping notices" in existence at the time the spreadsheet was drafted were for the years 1958, 1959, and 1960. And even for those years not all of the sales set forth on the spreadsheet were documented with shipping notices.

Rather than original, contemporaneous shipping notices, it appears that the majority of the back-up documentation used to draft GE's spreadsheet consists of receivables, account reconciliations, and month end balances. In other words, GE relied on documentation reflecting that MPW had not paid for the pyranol in a timely manner. For instance, it appears that MPW was consistently behind in its payments during 1957. Thus, based on nothing more than receivables information, EPA was able to estimate that GE sold MPW 284 drums of pyranol in that year. Likewise, GE documents make clear the fact that MPW didn't pay for *any* of the

[1] AAG does not mean to imply that the GE spreadsheet is unreliable as far as it goes. Obviously, the author did locate some documents reflecting shipments to MPW. However, there is no evidence that the unknown author was instructed to locate every single piece of documentation tying GE to the Site, or that he would have been motivated to do so under the circumstances prevailing at the time. In fact, the evidence is to the contrary. For instance, GE has acknowledged that the unknown author made numerous factual and mathematical errors and omissions that have resulted in GE's own estimate of its contribution increasing by more than 20,000 gallons over the total originally set forth on the spread-sheet. *See* Reconciliation attached to Siebels Aff. AAG's point is that GE's lack of knowledge regarding the genesis of the spreadsheet demonstrates that it cannot be complete.

pyranol it received in 1966-1967. Again, then, based on nothing more than receivables information and documents relating to GE's write-off of MPW's balance, EPA was able to estimate that GE shipped MPW 1165 drums in 1966 and 700 drums in 1967.

By contrast, it is apparent that the author of GE's spreadsheet had neither original shipping notices, nor extensive receivables information to review with respect to the years 1961-1964. Accordingly, the total sales for those years set forth on GE's spreadsheet are significantly less than for other years.[2] By virtue of this fact, EPA has assumed that GE sold MPW less pyranol during those years. This assumption, however, is flawed.

The only reasonable assumption one can reach about the years 1961-1964 is that because MPW paid for its pyranol in a timely manner, little documentation was kept regarding GE's sale of pyranol to MPW during those years. This is so not only because GE's spreadsheet is incomplete on its face, but also because the testimony does not support the notion that GE significantly reduced its sales to MPW during 1961-1964.

On the contrary, Hooper clearly stated that he went to GE with the *same frequency over the years*. Hooper I at 44. And on those occasions when he did not go there for more than a month, he would later pick up the "backlog" of drums that had accumulated over that time. Hooper II at 449. In addition to Hooper, both Hamilton and Nutter drove to GE. Fletcher also hired a contract trucker to haul loads from GE and GE hired a trucker of its own. February 16, 1968 letter from Fred Fletcher to Albert Clark.

Similarly, there is no evidence concerning what GE possibly could have done with the scrap pyranol it allegedly did not send to MPW, during the years that GE's spreadsheet reflects less volume. There is no evidence of any significant change in GE's processes, nor does it appear that GE had any other substantial source for disposal of its scrap pyranol.

In sum, the testimony supports the fact that shipments from GE to MPW were fairly "regular" over the years. Whitney at 194. If one accepts the numbers set forth on GE's spreadsheet, however, then GE shipped more than half of the total volume of pyranol to MPW over the course of approximately two years. There is simply no testimony to support such a sharp discrepancy in volume over such a short period of time.

Thus, EPA should not assume that GE shipped less pyranol to MPW during years when GE's documentation is lacking. Instead, EPA should assume that GE documentation is lacking for those years. EPA should then look to those years where GE's documentation is most reliable and complete, in order to establish an average number of shipments per year. AAG submits that

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[2] A careful analysis of GE's spreadsheet reveals that the number of shipments set forth in any given year is a direct result of the amount of back-up documentation available to the unknown author for those years. For instance, relatively large amounts of shipments are set forth in 1957-1960, as significant receivables information as well as some shipping notices, were available for those years. Likewise, significant amounts of documentation exist with respect to 1966-1967, due to the fact that MPW didn't pay for any of those shipments and GE had to write off the balance. Again, the amount of shipments in those years is very high. By contrast, little to no back-up documentation exists for the years 1961-1964. Consequently, the amount of shipments set forth in the GE spreadsheets for those years is very low.

GE documentation is most reliable and complete with respect to the 1966-1967 time period. This is so because MPW's failure to pay for *any* of the shipments during those years resulted in the generation of a significant amount of internal documentation within GE. GE's subsequent decision to write off MPW's balance resulted in even more documentation.

Pursuant to this methodology, EPA should assume that 1966 and 1967 represent average years with respect to GE's shipments to MPW. EPA should then adjust the other years accordingly. Such an approach is consistent not only with the testimony but also with the obviously incomplete nature of GE's spreadsheet.

Another approach would be for EPA to assume that the number of shipments during the years 1956-1960 represent an appropriate average, and should bring the average for those years forward for the years 1961-1964. Even this methodology, however, would significantly understate GE's contribution since EPA does not allocate any free shipments to GE from 1956-1960, despite the fact that Mr. Hooper testified that such free shipments occurred "a couple of times a year, maybe more than that" during the Metivier era. Hooper I at 319. Hooper also testified that every second or third load of pyranol was free. Hooper II at 352. Although EPA assumes that free shipments did not occur until 1960 or 1961 when the filtering/blending operation allegedly began (*see* Determination ¶¶ 31-33) Hooper's testimony was not so limited. Hooper never stated that "thinned" pyranol was not sent to the Site until the 1960's. Likewise, he never stated that the commencement of the filtering/blending process coincided with the receipt of "thinned" pyranol. Nor are there any facts upon which to draw such an inference. As stated, Hooper testified simply that GE sent "thinned" pyranol (Hooper I at 65) and that free shipments occurred during the time that Metevier was in charge. Hooper I at 319. Metevier was in charge from the early 1950's until 1964. Determination ¶ 39. Thus, EPA should increase its estimate of GE shipments from 1956-1964 to reflect free shipments that took place during those years.

Finally, even accepting EPA's methodology for estimating GE shipments to the Site, EPA's estimate for the years 1961-1964 still substantially understates GE's contribution. For example, with respect to 1961, EPA correctly notes that GE records document only six shipments in four months, and that this is inconsistent with the testimony that shipments were generally steady. *See* Determination, Table 1, ¶ 57. EPA assumes that the only other shipments sent by GE during that year were four *free* loads. Thus, while EPA notes that GE's lack of records is inconsistent with the testimony, EPA's assumption that no other shipments took place (besides the free shipments) is also inconsistent with the testimony. As stated above, the appropriate assumption with respect to years where documentation is lacking, is that documentation is lacking, not that GE sent less pyranol. GE only has records documenting shipments for one-third of the year in 1961. It is certainly appropriate and consistent with the testimony to assume that GE sent the same volume of pyranol during the other two thirds of the year. Accordingly, EPA should assume that in 1961 GE sent an additional 176 drums for a total

of 264, plus the 60 free drums that EPA has accounted for. EPA should apply a similar analysis with respect to 1962 and 1963 as well.[3]

II. The Draft *De Minimus* Determination Overstates Sprague's Contribution of Waste to the Site.

In analyzing Sprague's contribution to the Site, EPA correctly notes that no contemporaneous records exist regarding MPW pickups of pyranol from Sprague. Draft *De Minimus* Determination, ¶ 59. Additionally, EPA interviewed 18 ex-Sprague employees, many who would have been in a position to know about disposal of waste chlorinol, and none had ever heard of MPW. *Id.* at ¶ 60.

Nonetheless, based primarily on the testimony of Mr. Hooper and Mr. Whitney, EPA has estimated that Sprague contributed a range of between 60 and 176 drums to the Site. In allocating Sprague's percentage share, however, EPA has assumed that Sprague sent the high end of the range, or 176 drums to the Site. AAG contends that this methodology overstates Sprague's contribution for several reasons. First, there was no reason for Sprague to send scrap chlorinol off-site, because it had at least two outlets for the material in North Adams. Second, analysis of Mr. Hooper's testimony does not support EPA's high-end estimate of Sprague's contribution. And third, Mr. Whitney's speculation regarding Sprague's percentage contribution is simply not credible for numerous and compelling reasons.[4]

A. Sprague Dumped Its Scrap Chlorinol in North Adams Landfills.

During its interviews of Sprague personnel, EPA discovered "substantial evidence that a quantity of Sprague's scrap chlorinol was disposed of in a pit behind the Brown St. plant." *Id.* at 61. In addition to these witnesses, AAG has recently obtained a 1990 statement of William Cooper, a long-time employee in Sprague's maintenance department. Mr. Cooper confirmed that he dumped used chlorinol and other oils in the landfill behind the Brown Street plant as well as the North Adams municipal landfill. There is no mention of any sales of chlorinol to MPW or to anyone else. Most definitely, Mr. Cooper would have been in a position to know of any such disposals.

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[3] EPA assumes that GE sent only one free shipment to MPW in 1962. This is inconsistent with Hooper's testimony that every second or third load was free (Hooper II at 352) and that MPW received a couple free loads or more per year (Hooper I at 319). There is no reason to believe that MPW received any fewer free loads in 1962 than in 1961. Accordingly, EPA should increase the number of free loads in 1962 to four, making the number consistent with 1961, and should carry the analysis forward to 1963 where EPA has assumed the same number of drums as 1961.

[4] EPA's methodology in this respect is also inconsistent. In addition to the fact that EPA has assumed that Sprague sent 176 drums to the Site despite the fact that this is the highest number in the "range" that EPA has calculated, EPA has taken the opposite approach with respect to calculating GE's share. As stated in footnote 14 of the Determination, EPA has assumed that Sprague sent 44% of the volume that could be gleaned by crediting Hooper's most far-reaching and speculative testimony regarding trips he made to Sprague. By contrast, EPA has estimated GE's volume "based on about 10% of the trips that Hooper thinks he might have made to GE." Determination, ¶ 83, n.14. There is, however, no support in the evidence for this inconsistent approach. AAG submits that EPA should take a consistent approach to estimating GE's volume versus Sprague's.

Sprague documents from 1970 confirm Sprague's practice of dumping whatever scrap chlorinol was generated in the manufacturing process. A November 23, 1970 memo states that "[c]urrently we pour small quantities of Chlorinol waste into the ground . . . We plan to return the small quantities of loose Chlorinol to Monsanto for disposal." AAG 02154. A memorandum from Robert Sprague dated November 24, 1970 states that Sprague should discontinue the practice of pouring "small quantities of Chlorinol waste into the ground . . ." AAG 02153. And on that same date, another memorandum confirmed that Sprague had "stopped pouring [loose Chlorinol] into the ground and will return all quantities to Monsanto." AAG 02152.

On November 25, 1970 yet another memorandum states that "in an effort to eliminate contamination of our environment . . . all persons responsible for operations involving the use of or exposure to chlorinol . . . will please make every effort to collect the waste from these operations . . . and store in 55 gallon drums *which will be supplied* for this purpose." AAG 02155. [Emphasis added][5] (These Sprague documents are attached hereto).

AAG submits that it would make little sense for Sprague to go through the effort of shipping scrap chlorinol off-site, when it had two local outlets for the material in North Adams. Unlike GE or even AVX, Sprague obviously did not have to pay to use the landfill behind its plant. Nor is there any evidence that Sprague paid to use the municipal landfill. Further, the sheer number of Sprague witnesses who knew of Sprague's practice of dumping chlorinol in local landfills, but had never heard of MPW, conclusively demonstrates that if Sprague did send anything to MPW, the volume had to be extremely minimal.

In fact, the testimony of Lawrence Moreau supports the tenuous connection between Sprague and the Site, if any. Mr. Moreau recalls that someone asked him to make a phone call to Milford Paint Works "and see when the hell they're gonna pick up that junk we got down there." Moreau Dep. at 13. As to what the "junk" was, Mr. Moreau did not know except to state that it "was oil. What kind of oil, I don't know. Could have been the PCBs, could have been the Vitamin-Q . . . or castor oil."[6] *Id.* Mr. Moreau stated that "I was asked could you see when they are going to come. If not we're going to get rid of it." *Id.* at 31. As to how much of the material was set aside, Mr. Moreau stated that "I don't think it was a large amount because there's no space for it." *Id.* at 36.

Mr. Moreau recalls making the call and several days later he recalls seeing a truck labeled "Milford Paint Works" leaving the grounds. *Id.* at 16. Mr. Moreau stated that this was the "first and only" time he ever saw such a truck and that it was the first and only time he ever heard the name Milford Paint Works mentioned. *Id.* at 17, 108. Mr. Moreau testified that "I got the impression that this was a one-first time type deal." *Id.* at 108. "Based on my evaluation, the

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[5] This evidence demonstrates that, in stark contrast to the extensive program instituted at GE, Sprague never really made a concerted effort to collect scrap chlorinol from its manufacturing process, until 1970. Sprague witnesses testified that in addition to being dumped, much of the scrap chlorinol was lost through drains in the floor (*see* Moreau Dep. at 76-77, stating that the floor to the impregnation room was tapered down to a drain in the middle). Scrap chlorinol was also spread over the grounds to suppress dust. *Id.* at 87.

[6] It is important to note in this regard that Hooper testified that Mr. Fletcher would obtain many different kinds of substances if he thought he could use them or re-sell them. Hooper II at 195-196.

fact that I only saw this once, I was only asked once, this sounds to me like someone made arrangements to have them pick up a sample of a type of scrap that we had to evaluate it and see if it was any value to them." *Id.* at 117. He did not know whether Sprague sold the material to MPW. *Id.* at 36.[7]

It is important to note that the Sprague employee who succeeded Mr. Moreau as materials manager, Marie Dargie, was interviewed by EPA, and had never heard of the sale of scrap chlorinol. Nor had she ever heard of MPW.

B. Hooper's Testimony Supports Only the Low End of EPA's Range.

EPA has defined the low end of Sprague's range as 60 drums, on the basis that the majority of Hooper's statements support a finding that he made "several" trips to Sprague. Draft *De Minimus* Determination, ¶ 85. EPA has defined the high end of the range as 176 drums, on the basis that "[s]ome of Hooper's other statements would support a finding that he went to Sprague more than just 'several' times." *Id.* at ¶ 86.

It is clear from an analysis of Hooper's testimony, however, that any of his statements that could support a finding of more than "several" trips, were nothing more than rank speculation. In order to understand this point, it is important to review the development of Hooper's testimony.

Hooper was first interviewed on May 24, 1991. At that time, he stated that 95% of the PCBs at the Site came from GE. With respect to Sprague, he stated only that it was another source.

In a July 15, 1991 EPA interview, Hooper again stated only that sources of waste PCBs at the Site other than GE, "*might* be Sprague Electric in North Adams, MA." [Emphasis added] EPA 769793. During a follow-up interview on August 30, 1991, Hooper signed a declaration stating for the second time that GE sent 95% of the PCBs to the Site. With respect to Sprague, he stated during the interview that "he made several trips to Sprague Electric in North Adams, Massachusetts in the 1960's." EPA 766528.

Mr. Hooper was next interviewed on March 11, 1992. During this interview Hooper did not mention the number of trips he made but he did remember that Sprague was a "brick factory complex." He also recalled the route he took to North Adams. However, Hooper was taken to the Sprague plant in North Adams by an EPA investigator. Hooper II at 313-314. It is probable that this trip had already taken place by the time of the March, 1992 interview. Hooper also

[7] It is important to note here, and AAG contends that the Determination should reflect the fact that any shipments from Sprague to MPW were initiated by MPW and any such material was picked up by MPW trucks. By contrast, GE instituted an extensive program designed to find buyers in order to fulfill its major need to dispose of scrap pyranol. Clark Dep. at 42. MPW satisfied this major need. Additionally, GE "arranged" for shipments to MPW by hiring a contract trucker to haul loads to MPW and by shipping at least one entire rail car full of scrap pyranol to MPW. February 16, 1968 letter from Fred Fletcher to Albert Clark; Varnum Affidavit. Again, there is no such evidence with respect to Sprague.

stated (incorrectly) during this interview that "Sprague's PCBs may have been made by Hooker Chemical or American Cyanamid." EPA 813550.

During his 1992 deposition, Hooper was asked about the number of trips he made to Sprague and stated that "this is a question I'm not sure of." He then threw out the phrase "ten years, maybe. . ." and then immediately clarified that this was speculation, stating again that "I'm not sure." Hooper 1 at 100. He also stated during this deposition that he went "just a few times, though, compared to GE" and that Sprague was a "dinky little outfit" compared to GE. Hooper I at 95, 97-98.

Prior to his 2000 deposition, Hooper spent significant time with GE lawyers. *See* Hooper II at 372-373. Nonetheless, in response to the first question from a GE lawyer about the number of trips, he stated that he thinks he went to Sprague "several times" over two or three years. Hooper II at 132-33.

Thereafter, GE lawyers tried to get Hooper to say that he could have gone to Sprague for as many as ten years. Mr. Hooper responded by stating: "Actually I don't remember the number of years. . . Well I would say it was a period of a few years. It might have gone that long, but I wouldn't be sure of it. . . I don't know . . . I suppose . . . Well honestly, I don't know. I – without those logbooks or something." 1992 Hooper II at 136. At the end of the deposition, Mr. Hooper confirmed that the only thing he could swear to under oath, was that it was "several years." *Id.* at 465.

AAG submits that the only fair reading of Hooper's testimony in light of all the other evidence, is that he made "several" trips to Sprague. Hooper could not testify to anything more than that without engaging in rank speculation. Accordingly, it would be more appropriate for EPA to assign Sprague's percentage contribution based on the low end of EPA's "range" or at least based on the middle of the range. The high end of the range, however, is not supported by the testimony.[8]

C. Whitney's Speculation Regarding Sprague's Percentage Contribution is Not Credible.

AAG expects that in its comments GE will make much of Mr. Whitney's testimony that during the time he worked at the Site (1960-1967), he is not sure but he thinks that "less than 25%" of the PCBs came from Sprague. Whitney at 75. AAG assumes that ¶ 98, n. 17 of the

[8] Even taking EPA's high end of the range, its estimate of 176 drums still overstates Sprague's contribution. EPA assumes that Hooper began making pick-ups at Sprague in "early 1961" based on EPA's assumption that GE reduced the volume it sent to MPW in 1961 and MPW needed a back-up supply. Determination ¶¶ 70-71. Additionally, Hooper stated on different occasions that he was making a trip to either Sprague or GE when Grandma Moses died. *Id.* Grandma Moses did not die, however, until December 13, 1961. *Id.* Further there is no evidence that MPW noticed a shortfall from GE at the very beginning of 1961 or that it was able to contact and make arrangements with Sprague in early 1961. Thus, the evidence is more supportive of the notion that Hooper began going to Sprague in late 1961, not early 1961. Accordingly, EPA should subtract at least one to two shipments from its high-end calculation.

Draft *De Minimus* Determination constitutes EPA's analysis of Whitney's testimony in this regard.[9]

Additionally, there are numerous other reasons why the number thrown out by Whitney cannot be anything close to accurate. First, Whitney's testimony has been conclusively proven to be wrong in several areas critical to the overall analysis. For instance, he testified that he worked at the Site from 1960 to 1967 and that it was two to four years after he came to work at Fletcher's when he first recalls any PCBs arriving at the Site. Whitney Dep. at 37. Of course, even the incomplete GE documents establish that GE sent materials to the Site in 1960, 1961, 1962, and 1964. Accordingly, Whitney's testimony in this regard, as well as his further testimony that he unloaded 95% of the drums, simply can't be credited.

Additionally, Whitney's testimony with respect to which drums came from which source, was based on his "strong" recollection regarding the color of the drums. Whitney dep. at 74-75. Directly contrary to the testimony of Mr. Hooper and GE witnesses, Whitney testified that drums from GE were red. *Id.* at 74; *see* Hooper I at 57 (GE drums were black); Ex. 2, Tab 31E, p. 5 to Siebels Dep. (GE drums were black). Again, directly contrary to Mr. Hooper, Whitney testified that drums from Sprague were black. *Whitney* at 75; *see* Hooper II at 416 (Sprague drums were red). Then when asked about percentages of the different color barrels he stated as follows: "Well, like I say, I'm not sure but I would suspect that probably less than 25 percent were black and probably 75 percent were red." *Id.* When confronted with Hooper's opposite recollection regarding the color of the drums, Whitney acknowledged that he could not identify the origin of the drums by their color. *Id.* at 189. He then stated that he remembered seeing the Sprague name on the drums, but at the same time admitted, consistent with Hooper's testimony, that all identifying markings were obliterated from the drums when they arrived at the Site. *Id.* at 188-189.[10]

Whitney further acknowledged that any estimates as to the relative percentage of drums from various sources almost forty years later are only guesses. Whitney Dep. at 190. The complete inaccuracy of his guesses in this regard is further supported by the fact that the first time Whitney was asked to give percentages, during an EPA interview in 1992, he stated that 80%-90% of the PCBs at the Site came from GE.

Whitney's guesses cannot be accurate for another obvious reason: as stated *supra*, that Whitney only worked at the site between 1960 and 1967. Whitney Dep. at 15, 47. Thus, Whitney was not present for any of the GE shipments that took place in the 1950's, including the

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[9] Footnote 17 of the Draft Determination contains several typographical errors and therefore is confusing as written. Actually, GE's, Sprague's and AVX's total shipments during 1960-1967 were estimated respectively at 3,354 (not 4,358), 176, and 50 for a total of 3,580 (not 4,584). Sprague's estimated shipments during this period are actually almost 5% of the total. This percentage is closer to Whitney's estimate for the obvious reason that he was not present for many years of shipments from GE, whereas the total amount of Sprague's shipments took place during his tenure. AAG assumes that this is the point EPA was trying to make in footnote 17.

[10] It is important to note in this regard that of all the Sprague employees deposed or interviewed, only one (Mr. Moreau) recalls ever seeing the Sprague name on a drum. And Mr. Moreau's recollection in this regard related only to drums coming *into* rather than going out from, the Sprague plant. Moreau Dep. at 55. At least one Sprague employee specifically stated that drums of scrap chlorinol were *not* labeled. EPA interview of Edward Clark.

initial shipment of between 100 and 500 drums and also probably including at least one railroad car shipment of pyranol.

Whitney's speculation regarding percentages also cannot be accurate because it is directly contrary to all of the other evidence in the case. Most significantly, Whitney's percentage guesses directly contradict Hooper's sworn testimony that 95% of the PCBs at the Site came from GE. Although Hooper himself has a vague and speculative memory regarding certain facts, his memory is far more consistent with the other evidence in the case than is Whitney's. Further, as a long-time employee at MPW (more than 40 years) who actually made the trips to retrieve PCBs, Hooper is in a far better position to testify regarding percentages of contribution, than Whitney. And while it is undisputed that other drivers went to GE, there is no evidence that any driver other than Hooper ever went to Sprague (*see* discussion below).

Additionally, Whitney's guesses directly contradict the numerous site witnesses who worked at the Site during the same time as Whitney, remember PCBs coming from GE, but had never heard of Sprague. With respect to truck drivers, neither Nutter nor Hamilton had any recollection of ever going to Sprague. *See* Nutter Dep. at 72; GE Disclosure of interview with Dave Hamilton; Ex. 2, Tab 2 to Siebels Dep.

John Racicot and Richard Fletcher also worked at the Site during the same time as Whitney. Richard Fletcher specifically handled PCBs at the Site. Both of these witnesses recall PCBs coming from GE. Richard Fletcher had never heard of Sprague and GE's disclosure of its interview with Racicot does not mention Sprague. Richard Fletcher Dep. at 42; GE Disclosure of Interview with John Racicot, Ex. 2, Tab 3 to Siebels Dep.

It is simply inconceivable that Sprague could have sent anything close to Whitney's estimate without any of these other witnesses having known about it. For instance, during 1966, when Whitney worked at the Site, GE sent 1165 drums to the Site. If Sprague sent 25% of that amount then Hooper would have had to go to Sprague more than once per month. Regardless of the fact that this directly contradicts Hooper's testimony that he only went to Sprague once or twice per year, and the fact that there is no evidence that Sprague could generate that amount of scrap, how could anything close to that number of trips have taken place, without anybody else having known about it, either at the Site, or at Sprague? Simply put, it could not have happened.

It is impossible to reconcile Whitney's testimony with Hooper's regarding percentage estimates. Hooper was in a better position to make these estimates and his testimony is consistent with all the other evidence in the case. Whitney's estimates, by contrast, directly contradict all of the other evidence in the case. For the reasons set forth above, Whitney's estimate should be explicitly rejected in the context of EPA's final *De Minimus* Determination.

III. AAG's Share Should Be Reduced Due to the Uncontroverted Evidence Regarding Release and Toxicity.

EPA acknowledges that the evidence demonstrates that GE contributed disproportionately to releases at the Site and that any PCBs brought by Sprague and Aerovox had reduced environmental effects as compared to GE. In fact, the evidence in this regard is overwhelming and undisputed.

As noted by EPA, the evidence is that Aerovox's and Sprague's drums were in good shape when they were received at the Site. Hooper I at 100. In addition, the PCBs in the drums Aerovox and Sprague allegedly sent to the Site were also in good shape such that they did not need to be filtered. Hooper II at 419-420. Furthermore, Aerovox's and Sprague's drums did not remain on the Site for long before being sold and sent off-site. Hooper testified that the Aerovox and Sprague drums were "gotten rid of shortly after we got it." *Id.* at 265. He also testified that the last pyranol remaining at the site was GE pyranol. *Id.*

On the other hand, there is substantial, uncontroverted evidence of significant releases from General Electric's drums at the Site. Mr. Hooper testified that "one thing I can say about General Electric, they were not careful when they filled the drums. A lot of times you'd find drums with bungs with no gaskets on them, we found that out, and leakage would occur." Hooper Depo. at 36. Mr. Hooper also recalled times where General Electric's drums were overfilled and when Fletcher employees opened the drums, the pyranol would spray up into the air one to two feet and then spill on the ground. Hooper I at 77. Most significantly, GE documents show that *1865 drums (102,575 gallons) of scrap pyranol* sent to the Site from 1965 to 1967 was contaminated with TCE to the point that it could not be used or re-sold. GE documents further show that as of at least 1974, Fletcher still had not been able to dispose of this material. In fact, some of these drums still remained at the Site when EPA began remedial actions. Therefore, these GE drums simply sat at the Site for years, exposed to the elements and allowed to leak into the ground. Again, these leftover drums which sat and leaked for many years *were all from GE and originally contained more than 100,000 gallons of PCBs*[11].

[11] GE may argue that its October, 1974 internal memorandum (GEA0115) provides evidence that some of the left-over drums came from Sprague. There is no support for any such contention. First, the statement involves numerous levels of hearsay and cannot be reliable. Second, as stated above, such an argument is contrary to Hooper's testimony that Sprague material was sold soon after it arrived. Again, there is no evidence that any material from Sprague was contaminated such that MPW could not use or re-sell it. Third and most important, the number of drums remaining in 1974 (approximately 1500) corresponds perfectly with Fletcher's February 16, 1968 letter which states that 1800 to 2000 drums *from GE* were badly contaminated and could not be used or re-sold. GEHF01294. GE documents confirm this fact as GE wrote off Fletcher's debt in 1968, following his failure to pay for *1865 drums*. GEHF01293. Obviously, Fletcher was subsequently able to dispose of some of these drums, leaving the remaining 1500 GE drums at the Site until at least 1974.

In sum, the evidence suggests that virtually all of the releases at the Site were from General Electric's drums. And while there is no evidence that any drums from Sprague contained TCE or TCB[12], there is further, undisputed evidence that much of GE's material was so contaminated, thereby enhancing the mobility of the PCBs and increasing clean-up costs at the Site.

AAG contends that the *De Minimus* Determination must take these important facts into consideration. Since the evidence is overwhelming and undisputed that GE's materials were released while Sprague's were not, and that GE's materials were contaminated while Sprague's were not, it is obvious that "the toxic, and the other hazardous effects" of any hazardous substances brought to the Site by Sprague are less than EPA has calculated in its Draft *De Minimus* Determination. EPA should reduce Sprague's allocation accordingly. At the very least, consideration of this important factor should require that EPA utilize the low or the middle range of its volumetric calculation with respect to Sprague when calculating AAG's contribution.

CONCLUSION

As set forth above in detail, the Draft Determination allocates to GE the lowest possible share given the evidence and allocates to AAG the highest possible share given the evidence. A more reasonable methodology would be to treat the two parties consistently, either taking the low end or the middle of the possible ranges for both. Further, the Draft Determination does not account for the vast discrepancy between the two parties with respect to the issues of release and toxicity. AAG respectfully requests that EPA consider these points with respect to issuance of the Final *De Minimus* Determination.

Sincerely,

Byrne J. Decker

cc: Cheryl Sprague, EPA
John Gruber, Esq., AAG

[12] EPA seems to assume that TCE and TCB are "associated" with PCB processes in general. This assumption is not accurate with respect to Sprague. While TCE and chlorinol did come together, this happened only during the last stage of the manufacturing process (degreasing). *See* Beverly Dep. at 37-38; Moreau Dep. at 51-60. This process, however, yielded an almost solid, still-bottom type of waste. Beverly Dep. at 37-38. Otherwise, there would have been no reason for TCE to be mixed with scrap chlorinol and there is no evidence that Sprague ever mixed these two types of scrap or sent any such contaminated material to the Site. Likewise, there is no evidence that Sprague ever added TCB to its chlorinol, unlike GE.

Statement of William Cooper Concerning
Disposal of Hazardous Materials
at the Town of North Adams Municipal Landfill
by Sprague Electric

The purpose of this statement is to set forward my knowledge of the disposal of oil and hazardous materials into the Town of North Adam's municipal landfill during the course of my employment by Sprague Electric. This statement was prepared from comments made by myself during an interview by Stephen P. Winslow, Assistant General Counsel for the Department of Environmental Protection (DEP) and Alan Weinberg of DEP's Western Regional Office in Springfield on February 21, 1990 at my home at 45 E Street, North Adams, Massachusetts. My wife Donna Cooper, was also present.

Prior to the interview Mr. Winslow read me the following statement:

> Mr. Cooper please answer Al and I's questions to the best of your personal knowledge. If you do not know the answer to a question or do not recall the answer please say so. You do not need to speculate or guess at any of the answers if you do not know the answer. These questions are being tape recorded. A written statement will be prepared from Mr. Cooper's responses today which Mr. Cooper will review for accuracy. Mr. Cooper will then sign them and have them notarized.

My statement is as follows:

My name is William Thomas Cooper Senior. I currently live at [redacted] I was born [redacted] in Bennington, Vermont and lived there for twenty five years. My mother's names was [redacted] and my father's name was [redacted]. I am currently married to [redacted]

My wife and I lived in Vermont for five years when we were first married. We moved to North Adams in 1961. We lived on Bracewell Avenue in North Adams for two years then we moved into our current home in 1963. We own our current home. The landfill is about a quarter mile from our home. We raised our children [redacted] in this house. The kids played in the landfill when they were growing up.

William Cooper, North Adams Massachusetts

I am medically retired and not currently employed. My last employer was Commonwealth Sprague Electric on Brown Street in North Adams. I was employed, altogether, approximately forty years. I worked at Brown Street two different times; I worked at Marshall Street and I started at Beaver Street another one of their plants. I started working for Sprague on May 5, 1950. Out of that nearly forty years, I was only laid off six months.

I started off in May of 1950 at Beaver Street, Sprague's employment office and main mill were up there at that time. I started out as a cathode stitcher; I put tabs on the units so they could be wired into the cans. The machine stapled tab material to the foil. That job did not involve the use of hazardous materials at that time. I worked about a year and a half in that position and then went into the service for two years. I served in the United States Army from April of 1951 to April of 1953. I did not serve in combat. I worked as a second echelon mechanic. I was exposed to grease and oil in that position.

After 1953, I came back and looked for other work. I couldn't find any so I went back to my previous company, Sprague. They allowed 120 days to comeback after discharge. I went back to the same position temporarily then got laid off. I was then transferred over into the salvage department.

I picked up resalable materials plus the rubbish out of the different plants. I disposed of them or saw that they were prepared for sale. I handled all the hazardous waste that came along; of course, we didn't know much about it at that time. This was roughly in 1954. They're passed away today, but Charles Wilson was my foreman. Herbert Hafner was my supervisor.

The first thing of the day was we'd go around and pickup all the salvage. When we got that all finished, we went on to picking up the trash and taking it to the dump. We salvaged foil, copper, brass--all your alloys--tantalum. They handled just about all your precious metals; they had gold, silver, platinum. They used all that in the primary coatings on the unit so that salt water and that couldn't get through to them. They used cadmium in plating. The salvaged materials were contained in everything, boxes, barrels, fiber barrels, an assortment, anything they could put it in really. We always picked it up by hand, if it was too heavy we used handtrucks. We put it on a truck and took it to the salvage department where it was sorted and graded. I sorted and graded when I got caught up on the other work.

William Cooper, North Adams Massachusetts

After picking up the salvage we'd go out and pickup the refuse. The rubbish was put into what we'd call rubbish trucks. At that time we'd have to throw it on by hand. You'd be reaching into the bottom--you didn't know what you were picking up--and just heaved it up onto the truck until it filled up. The rubbish trucks were on wheels and were four by two by three foot deep. We'd push them out to the truck by hand. When we first started loading we'd dump a few of them, then we'd have to start throwing it up on top. We'd get it up, there's an eight foot ceiling in the truck. Two people were on each truck, a driver and a helper.

Exhibit A:

I disposed of the following chemicals wastes for Sprague at the North Adams Landfill:

1. Barium Sulfate: was out of the Marshall Street plant. It's a powder, usually in thirty pound tubs. It was labelled Barium Sulfate on the outside. Sometimes it would be refuse from the process, others times they'd take it right out of the stock because it was aged and deteriorating so they couldn't use it. Sometimes it would be in floor sweepings, barreled up in different containers. All I know is that they used it in the ceramic department.

2. Ceramic Powder: was a yellowish material, usually it wasn't labeled because it was just barrelled up for disposal. Handling it I knew what it was. This was a real fine powder. When we handled it, it would blow in our faces. If it got on your clothes it was hard to brush off because it gets right into the fiber. Back in the fifties, we did not have any protective masks. In the early sixties we found out that we had the right to know. We went to the foreman and asked to get the equipment to handle it.

William Cooper, North Adams Massachusetts

3. Acetone: out of the Tantalum Department at Marshall Street. Its a liquid; its has the same basis as lacquer thinner as far as odor. They used it more or less for cleaner. That was contained in fifty gallon drums. It was dirty solvent that had been used. I knew what was in the drums because sometimes they'd use the barrel it came in to dispose of it; the drum would have "Acetone" written on it. I could usually tell by just removing the cap what it was. I knew by the smell itself. The smell is close to the smell of lacquer thinner. The drums had inflammable markings on them and that they shouldn't be inhaled. It didn't harm you as far as skin goes. Inhaling it, I guess, can affect your lungs. I was never given any special instructions on how to handle the materials, I just used common sense. The only safety equipment Sprague provided was a bronze pick or axe so there would be no sparks when we poked holes in the barrels.

4. Dyamenthal Formide: out of the Tantalum Department out of Marshall Street. They used it for impregnation of the units. It used to be on the top floor, Bill King's department. They were silver units with tantalum pellets and an acid. I think this Dyamenthal Formide was mixed with it as a conductoring site. This was a liquid when I disposed of it. This came in fifty gallon drums. They were pretty well marked. The name alone would tell you to look out for it. This is an irritant and you're not supposed to get any on you. They used rubber gloves upstairs when they handled it so it wouldn't get on their skin. This ended up as a waste because of spillage or, I guess, they'd have to start a new batch every day so the batch they had left over would be dumped. It's the only reason I'd figure they'd dump it. They did not give us rubber gloves to begin with but they did later in the sixties.

5. Acids: they were all used in the Tantalum Department too, in the etch house, building 21. They used to etch foil. Part of building 21 was a warehouse, part was the etch house where they'd etch foil. These were in regular legal cargo holders for transportation, bottles and one gallon cans. They would put the waste in the first container they got a hold of that was safe to put acid in. Most of the time the department's tried to mark what was coming out of their department. We were never given any special instructions on how to handle acids, we knew they were acids and were just cautious ourselves.

William Cooper, North Adams Massachusetts

6. Oils: Eccol is a very light, white oil, its crystal clear; its what they use to impregnate the units now in Brown Street. Its close to a mineral oil. They used to have chlorinol which is heavier; they didn't want to use the chlorinol anymore so they would use the eccol. Vistac, was used to impregnate, too, but that was too heavy and too expensive in the long run so they gave it up. The vacuum and pump oil was used for making a vacuum in the oven when they pushed the units in. At Brown Street most of the stuff was gathered in fifty gallon drums that were labelled. The drums were not marked with the names I gave but I knew from the contents what I was handling. I didn't have too much contact with the people who used these materials, but they were friends. They did not explain what each material was.

7. Acetate: that was used at Brown Street plant. It was mixed with another chemical, I don't know what it is. That's what they'd impregnate the units upstairs with. It came out like a dry, hard solid packed around the unit on the inside. Most of the time it came in five gallon cans. Its a liquid to start with but when additives were put into it, it hardened up like a brick. It was a liquid when I got it. They would throw away whatever was left in five gallon cans to be disposed of. I would handle the solid as a unit not as an individual item.

8. Lacquer Thinner: that was used in the Brown Street paint room for thinning paints. That was contained in fifty gallon drums. It was waste lacquer thinner that would was thrown away at the end of the day because it had "skinned" up. Those drums were marked.

9. Alcohol: that was used in areas where women would stamp the units. They'd use it to wash off mistakes. It took awhile to accumulate but a quantity did build up after awhile. I am not positive what type of alcohol it was, I'd say its was a wood alcohol or grain alcohol. Usually it was contained in five gallon metal cans. The cans might say inflammable on the side or something like that.

William Cooper, North Adams Massachusetts

10. Triad: that's trichlor, that's what they're having the biggest problem with. Its received in fifty-five gallon drums and disposed of in fifty-five gallon drums. Its a clear liquid. They marked the barrels Triad. By smell alone I could tell it was trichlor. The containers would be marked either with Triad or solvent on the side. I noticed that the new barrels coming in were marked trichlorethylene, the full name of it, what trichlor is and the precautions to use in handling it. The precautions were to watch your skin and your eyes and not to inhale. I don't really remember when the new labelling started.

11. Asbestos: that I got from emptying rubbish trucks. They used to take the piping covers right off and throw them into trash where the asbestos would be loose in the rubbish trucks. We did not have any special handling instructions at that time, not way back. They did not provide any special handling equipment, they furnished us with leather palm gloves, that's the only thing they ever gave us, until we complained. After we complained, they gave us a small mask to wear and longer sleeve clothes, that's about it. We were using that equipment for all the rubbish after awhile since we really didn't know what was coming out in the rubbish trucks.

12. Oakite-19: they used that as a cleaner in big dry ovens, for washing down the walls and stuff to cutdown the grease and oil. I did not know what was in that material. All I knew is that Oakite added to water gets hot and burns you. The lower the number the stronger it gets. It was a liquid when we got it, mixed with oil and water from the washing. The waste had a cloudy yellowish water look to it. It would be in fifty gallon drums. No special warnings or markings were on the drums, they'd just put Oakite on it and I'd realize what it was.

13. Genasol-D: it's a cleaner. it isn't flammable or hazardous, its got trichlor as far as vapors go, they used it for washing down liners. Its a degreaser agent. Trichlor's not in it as far as I know. I don't know what the basis of Genasol-D is. It's a liquid. Comes in fifty gallon drums which said Genasol-D on them and a list of what to look out for and what to do.

William Cooper, North Adams Massachusetts

14. Varnish: that was used when I first started down at Brown Street, they used it for awhile then they did away with it. They used to dip the units in varnish to stop them from corroding. It was similar to your regular house varnish. It came in fifty gallon drums. It was expired varnish. They could only use it for a day and then they'd have to dispose of it because it was set up. I don't remember any special warnings on that.

15. Bakelite Powder: this was from the molding room years ago down at Brown Street. They'd take a pellet or whatever unit it was and set it in a die, they'd pour powder into it and release a press and the powder came around the unit and completed it. Very flammable. It was in fiber barrels or cardboard barrels which said Bakelite on the side. There were code numbers for different ones. I did not know what sort of chemicals it was based on.

William Cooper, North Adams Massachusetts

The materials in the list above were deposited were dumped at the North Adams city landfill on E Street, located about 100 to 200 yards from here.

Years ago, Sprague had five plants in North Adams, they started closing one at a time. They got down to two and are now down to one in the heart of town, the other is on the outskirts of town. Triad, I'd say came from Beaver Street, Union Street, Marshall Street and Brown Street. At that time we had those four plants.

I know years ago they used impregnation Chlorinol and know that some of that went into the landfill. Chlorinol contained PCB's. That was used strictly at Brown Street by the impregnation department. I was told that it was a PCB agent. The chlorinol went out by drums. The labels did not say chlorinol. The people in the departments, if they ran out of barrels, would go out into the pile and get an odd barrel and put it in. They'd fill up a barrel and bring it out back. I'd pick it up and dispose of it. I never saw them dumping the materials into the drums.

Most of the time if they were pumping out a liner they'd pump it right into the barrel. That's what they'd do with Genasol and eccol. A liner was the size of a half-ton pickup, only deeper, on big wheels. They'd submerge the units in the liners and run the liners through on a railroad-like track on the floor and then the liners would go right into the ovens and dryers. They'd put the liners in vats, close the doors and then pump the vats to get all the air out. A fluid would then be pumped all over the units. The units would be impregnated the next morning. They'd release the vacuum and pull the liner back out. They'd then pump the liner out or put the liquid back in the barrels if they could re-use it.

At Beaver Street, we used to go round back to the rubbish room where they'd store the barrels to be picked-up; it was 40 by 40. The wastes weren't organized in anyway. At Marshall Street, most of it was stored in building 9, but we did sometimes go to the departments and wheel it out ourselves when they didn't have a utility man. Materials were also stored at Building 21 at Marshall Street. At Brown Street, the wastes were stored at the last building at the back of Brown Street, in like a shed. The materials were really all over the yard there.

William Cooper, North Adams Massachusetts

Wastes were spilled all through the plants at times. I spilled some myself at times. Sometimes a hydraulic fork lift would go through a barrel, you'd get 50 gallons on the ground. We had a sand-like absorbent, called Speedi-Dry, that we'd pour on the spill to try and soak it up and stop it from running all over. We'd then put the Speedi-Dry in the truck and go to the dump.

The first truck did rubbish all day, mostly paper trash. The second truck was a van, all enclosed except the back. We used that type of van to dispose of chemicals from 1957 on. The drums were secured by chain binders to make sure they didn't move. The truck had a two pound fire extinguisher. We picked up the chemicals two to three times per week. As more of the plants closed down over the years, we went one or two times per week. The most I could get on the truck at one time was 18 barrels, one tier of fifty gallon drums. The majority of the time the truck would be full. The barrels were usually full also. I did use both Brown Street and the town landfill until Brown Street dump closed. Then it all went to the town landfill until OSHA in 1982 or 1983, I think it was OSHA, then you had to barrel it all up and ship it out. Sprague Electric owned the truck.

Referring to Appendix A, the first half of the list, from Triad up, made up the majority of what was disposed.

Some of the chemical wastes were deposited at Brown Street when Sprague had an open dump down there; that lasted two or three years. At Brown Street they'd dig a trench; when it was full we'd tell them to dig another. The North Adams landfill was also used. My foreman, Andy Girgenti, instructed me to take the wastes there. My other foreman were Newton and Melford Peck (brothers). The people over them were Edward Bassi and Clarence Pratt. They'd say take it and dispose of it at the private dump or the landfill. After that it was a matter of routine. There were no tipping fees at the North Adams landfill at the beginning. The last few years the town charged a tipping fee. The town would just bill the company. The town had a man there in the late seventies. Years ago the landfill was bid out and private individuals would take care of it. Joe Lentini ran it, and George Belanger, too. They'd tell us where to dump it.

William Cooper, North Adams Massachusetts

Now the landfill dump spot is about a quarter-mile from the end of E Street. In the 1950's, it was a lot less than a quarter mile from the end of E Street. In the fifties they'd burn the landfill and then bury the waste in so it would be 100 feet deep. They'd burn it and cover it. The trucks we used then had a dump body and we'd just tip them up. We'd then poke holes in the drums and set the drums on fire. It was a routine part of the job. A city ordinance said to burn your trash at the dump. About 18 years a ago they stopped burning the trash and started burying it in. After the period we stopped burning we'd just poke the drums and watch until the liquid soaked into the ground. We stayed there to make sure the children on the hill didn't play in it.

Landfill Sites Recommended for Testing, Appendix A

E Street, the Wetland Area: I recommend that area because the surface drain-off from the landfill comes downhill and would be washed down into the wetland.

The natural spring: the same situation exists there as exists at the wetland, the chemicals could wash into the spring.

The dead end sections of A, B & D Streets: all the drain waters go downhill there; its a leach water which picks up the waste and goes downhill.

The playing fields at the high school: part of the playing fields were part of the landfill and all the water drains to where the school is today. I don't recall ever dumping chemical wastes at the playing fields but the landfill operators would bulldoze into that area as they spread out the cover.

William Cooper, North Adams Massachusetts

My Exposure

I was exposed to most of the wastes everyday of the week. I cleaned the refuse areas everyday. Two people loaded the barrels onto the truck. We'd dump the barrels off and then drain them. I ruined a lot of clothes by handling the waste. Some of the stuff would not wash out. I came in direct physical contact with the waste often. I breathed vapors from the waste when I poked holes in the drums, mostly I breathed the lacquer thinners and the trichlor. I remember being nauseous and getting dry heaves because the vapor would be so strong. I would get headaches and aches and pains, especially around quitting time. I never recall having to get immediate medical attention due to my exposure. In 1985 I was sent for a physical to be checked for exposure to asbestos; I was found to have asbestos poisoning. Otherwise, I did not ever have a regular physical exam. The only reason I got the 1985 exam was because the union fought for it. I have never applied for workmen's compensation.

[redacted]

I went to the landfill when I was working for Sprague to poke around and to see what was up there. My children did that also. I can't say my children had any effects because of that but two do have asthma.

The Landfill Operation

Joe Fillio was the caretaker when I first started dumping at the landfill, he worked for Joe Lentini. The city owned the land and took bids to run the landfill. As far as I know, the city has owned the land all this time. The landfill never had a fence around it. The caretaker did not check people as they came in and out of the landfill. The caretaker made sure that people didn't create problems up there. There were no signs which prohibited the disposal of waste of any kind.

When you got to the landfill, you'd dump the materials over the bank which faced ~~south~~ north. The drums would roll down the bank.

W.T.C.

William Cooper, North Adams Massachusetts

We would walk down the bank and then light the drums on fire.

I don't recall ever seeing other chemicals dumped at the landfill but I knew other manufacturers dumped trash there. I knew some of the drivers for those companies. I never paid much attention to what they were hauling. I knew other companies must have similar waste to Sprague's. The other companies were Widen Tannery over in Blackington would have dyes to get rid of. The North Adams Regional Hospital dumped all their stuff there.

ATTESTATION

This statement was prepared from comments I made during an interview conducted by Stephen P. Winslow and Alan Weinberg of the Department of Environmental Protection on February 21, 1990. I have reviewed this written statement for accuracy and adopt its words as my own. I make this statement freely and voluntarily without any compulsion whatsoever. There is no reason to doubt the truth of my statements or that they were made in good faith.

William Thomas Cooper Sr.
Signed William Thomas Cooper Senior

Date April 19, 1990

City, County & State North Adams, Berkshire County Massachusetts

On April 19, 1990, then personally appeared the above William Thomas Cooper Senior, and made oath that the above statement by him subscribed is true, before me.

Notary Public
My Commission Expires: 10.23.92

N:\LEGAL\FILES\SWINSLOW\NADLNSMT.DOC

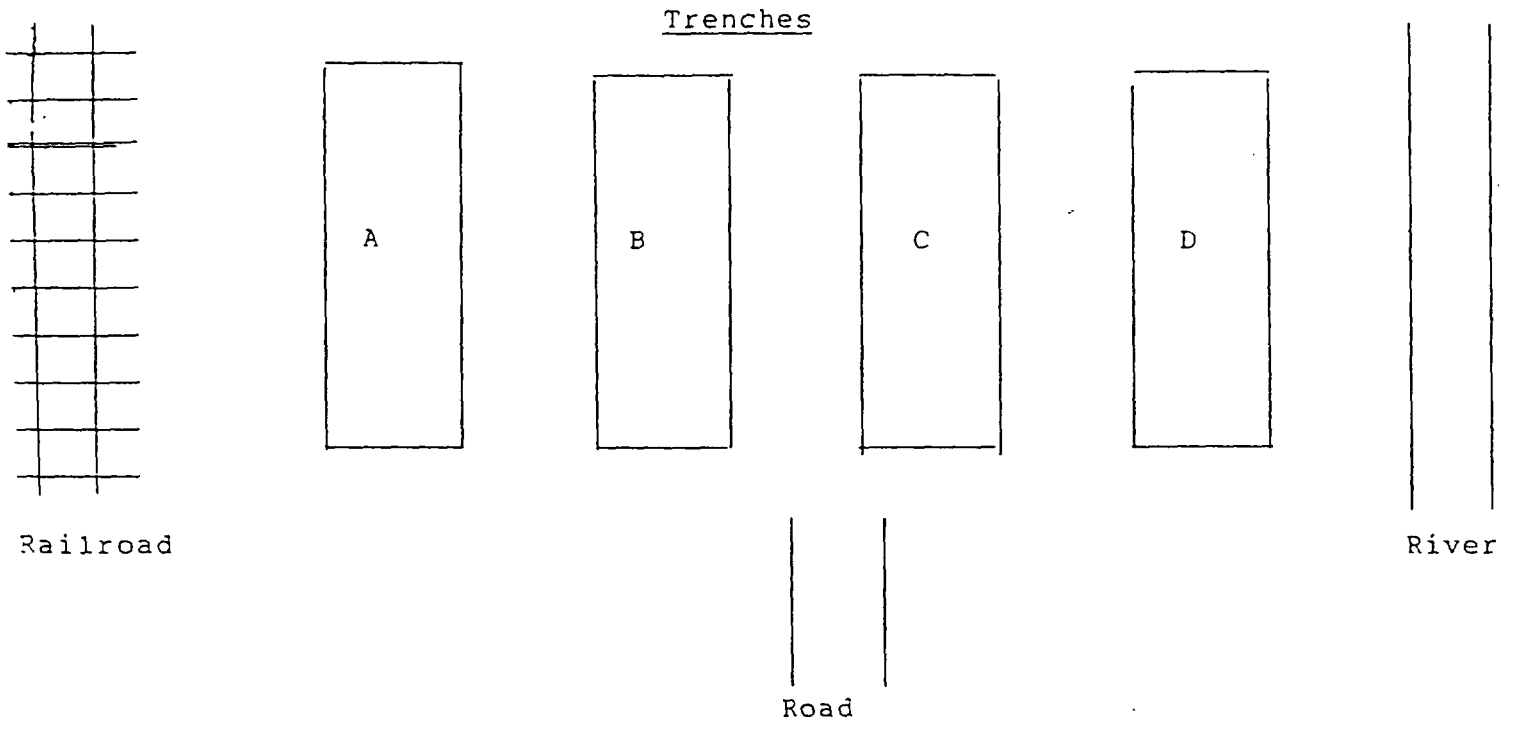
Materials Deposited in Fairgrounds Area From Sprague Electric Co.

Material	Plant	Department	Building
Clorinal	Brown Street	Impregnation	1st. floor
Benzine (in pipes)	Brown Street	Impregnation	1st. floor
No. 6 Crude oil	Marshal Street		Boiler House
Barium Sulfate	Marshal Street	Ceramic	5-6-6A &6B
Ceramic Powder	Marshal Street	Ceramic	5-6-6A & 6B
Accitone	Marshal Street	Tantalum	5
Dyamenthal Formide	Marshal Street	Tantalum	5
Acetate	Brown Street	Sealing Room	2nd. floor
Lacquer Thinner	Brown Street	Paint Room	1st. floor
Alcohol	Marshal Street	Laboratories	various
Varnish	Brown Street	Impregnation	1st. floor
Oakite - 19	Brown Street	Impregnation	1st. floor
Genasol D	Brown Street	Impregnation	1st. floor
Triad	all plants	most departments	
Asbestoes	all plants		
Acids; (sulfuric - nitric - muriatic - florisitic)	Marshal Street	Tantalum	5
Oils;	Brown Street	Impregnation	1st. floor

Unlabled chemicals from all laboratory stockrooms.
Tubs and barrels that were used to contain these materials.

(Numerous holes were punched in each barrel so contents could drain. Bottles and bags were broken open.)

Diagram of Fairgrounds Area Dumping Site



Brown Street Plant

(1) Trenches A. B & D hold barrels containing various chemicals and wastes.

(2) Trench C holds piping, wood, barrels and laboratory chemicals.

(3) Each trench was 25 feet deep, 20 feet wide and 100 feet long. (Large enough to back a 1 ½ ton truck into.)

(4) There were 20 to 30 feet between each trench.

(5) Numerous holes were punched in each barrel so contents could drain. Bottles and bags were broken open.

(All measurements given are approximate)

Brown Street site recommended for testing

Last building on river side of property - Teflon solution

Marshal Street sites recommended for testing

(1) Building 16 (including crawl space) ;
(silver nitrate solution, plationizing solution, vacuum and pump oils, pure carbois of acid; nitric - sulfuric - muriatic . eccol and chlorinal oils.)

(2 & 3) Building 8 (cutting oils) Building 21 (Triad) under building.

3. The identity and location of all persons employed by Fletcher's Paint Works at the Site from 1950 until the company ceased operations, and GE's understanding of what information they possess regarding the use, storage, handling, transfer, transport, sale, or disposal of hazardous substances (including, without limitation, PCBs) or other chemical materials (including waste materials) at or to Fletcher's Paint Works or at the Fletcher's Paint Site.

Response:

Dave Hamilton confirms that he drove to GE and does not recall driving to Aerovox or Sprague.

John Racicot, [redacted] worked at Fletcher's from February 1962 until May or June 1968. Mr. Racicot believes that PCBs were shipped to Fletcher's from GE by an independent trucker. Mr. Racicot assisted Clyde Bishop in sampling the drums of PCBs. Clyde Bishop determined which drums Fletcher's would keep and which ones they would send to other customers primarily "Web Tech." [redacted] Street Site and observed drums being stored there.

Hank Stinson, [redacted] worked at Fletcher's from March 1967 until January 1970. He has no knowledge concerning PCBs, however, he observed the drums of chemicals stored at Elm Street; and described the ground in the vicinity of the drums as being covered in muck, gooey sticky stuff.

Nancy L. Fraser, [redacted], worked at Fletcher's in 1980s handling accounts receivable. She has no recollection of GE, Sprague or Aerovox.

Peggy Sweetman Fraser, worked at Fletcher's in 1950s, and currently lives in [redacted]

Shaun McGrath, possibly lives in [redacted]

GE believes that the following ~~Fletcher's~~ employees are deceased: Clyde Bishop, Tony Casserino, Fred Fletcher, Mary Fletcher, Harry Gates, Bruce Hagar, Donald Jenks, Warner Nutter, and Earl Wesson.

P36A-50M

SPRAGUE ELECTRIC COMPANY

INTER-OFFICE COMMUNICATION

RECEIVED

NOV 27 1970

Mr. Bruce R. Carlson

DATE: November 24, 1970

FROM: Mr. Robert C. Sprague

B. R. CARLSON

REF.:

SUBJECT:

Bill

I don't approve, even temporarily, of continuing to put small quantities of Clorinol waste into the ground, nor burying Clorinol capacitors as outlined in paragraphs one and two of Bill Templeton's memo to you of November 23rd.

I believe the only safe procedure is to:-

1. Eliminate pouring any quantity whatsoever of Clorinol waste into the ground and make immediate arrangements to return all loose quantities to Monsanto for disposal.

2. Aswe have storage facilities it is much safer to store the defective capacitors in warehouse space available to us or arrange also to return them to Monsanto for disposal.

I would appreciate an early decision as to how these matters will be handled.

Robert C. Sprague

from the desk of

BRUCE CARLSON

WST 11/24

Betterdo as the man says. Pls. advise.

BC

Have stopped.

WT

AAG 021

SPRAGUE ELECTRIC COMPANY

Inter-Office Communication

DATE- 11/25/70

TO: Those Concerned

FROM: Mr. N. C. Sears

SUBJECT: CLORINOL WASTE DISPOSAL

For some time an investigation of the clorinol waste disposal practices has been under way in an effort to eliminate contamination of our environment. Although the investigation is not complete, it has become necessary to take immediate steps to eliminate as much of this waste material as possible. To this end, all persons responsible for operations involving the use of or exposure to clorinol 1254, 1242 and clorinol "X" will please make every effort to collect the waste from these operations in the forms of

1- Pure liquid
2- Drippings from racks and conveyors
3- Degreaser sludge
4- Filter cake
5- Vacuum pump drain oil
6- "Speedi-Dry" sweeping compound
7- Any other source or material

and store in 55 gallon drums which will be supplied for this purpose.

Changes to specifications PB-29, PB-35, and PB-48 are in process with issues expected by 12/1. This document will supply basic direction for disposal of clorinol waste material and, with the above, will constitute handling procedures until further notice.

Requests for barrels and barrel removal should be made to Mr. A. Girgenti who will be responsible for move and storage operations.

The individual concern and cooperation of all concerned is urgently requested in this effort to eliminate Brown Street operation as a pollution contributor.

N. C. Sears

NCS/g
CC/WAllison
SBagdon
JBianchi
EBrown
JBrown
BCarpenter
HDavis
BDuval
EFitzpatrick
AGirgenti
RHadley
WMarquardt
JOrtman
JPennock
KRussell
DRuthman
WSaunders
JShields
AVail

Mr. B. R. Carlson

November 24, 1970

W. S. Templeton

Clorinol

This is with reference to Mr. Sprague's comments:

1. Loose Clorinol - We have stopped pouring this into the ground and will return all quantities to Monsanto.

2. Scrap Capacitors - Monsanto's position on this is that the burial method is preferred and recommended, and they do not take back Clorinol in this form. For this reason we are searching for a new area for burial. In line with Mr. Sprague's memorandum, we will arrange to store these until a suitable area is found. This is of some urgency in view of the number of capacitors involved; i.e., about 5% of production. We shall continue to work to reduce this figure, which has been reduced progressively over the past three years or so. Ben Carpenter please advise as to progress on a new area. Meantime, if no area for storage is available at Brown Street, I suggest you take over a portion of Union Street.

WST/ah
cc BCarpenter

W. S. Templeton

Mr. B. R. Carlson

November 23, 1970

W. S. Templeton

Clorinol Waste Disposal

Currently we pour small quantities of Clorinol waste into the ground, and we also bury some defective capacitors which have a Clorinol content.

We plan to return the small quantities of loose Clorinol to Monsanto for disposal, but will continue to bury the capacitors at the present location; i.e., behind Brown Street, or at some alternative location. It is desirable, in our opinion, to find an alternative location because the present one is close to the river and some leaching at a future date is possible.

In line with the foregoing, we are endeavoring to reduce Clorinol emission to the atmosphere from the process.

There is some possibility that the present Clorinol capacitor will be replaced in the future with a polypropylene type using castor oil impregnant, but this is still in the conceptual stage and is hardly a solid consideration at the moment.

Fred Butler and Ben Carpenter have checked the climate in South Carolina considering Clorinol disposal with Sangamo, who have had some dialogue with the state but who are far more involved at present with disposal of aluminum oxide waste, as per our own problem at Lansing. Sangamo's feeling is that if we show concern and take due precaution, we should not have any problem with the state of South Carolina.

As the sole supplier, Monsanto is acting as the industrial conscience in this matter, and we shall continue to work closely with them, particularly on the return of loose waste Clorinol.

WST/ah
cc RCSprague
RCSprague, Jr.
JDWashburn
NWWelch

W. S. Templeton